IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

IRENE SANTOS,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. SA-09-CV-355-XR
	§	
MICHAEL J. ASTRUE,	§	
Commissioner of the Social Security	§	
Administration,	§	
	§	
Defendant.	§	

ORDER ON MAGISTRATE JUDGE'S MEMORANDUM & RECOMMENDATION

On this date the Court considered the United State Magistrate Judge's Memorandum and Recommendation in the above-numbered and styled case (Docket Entry No. 23). After careful consideration, the Court ACCEPTS the Magistrate Judge's recommendation to reverse and remand the Commissioner's decision.

Any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file her written objections within fourteen days after being served with a copy of the findings and recommendations. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The Magistrate Judge issued her Memorandum and Recommendation on March 15, 2010. Accordingly, objections were due by April 1, 2010. Because no party has objected to the Magistrate Judge's Memorandum and Recommendation, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.").

In this case, Plaintiff Irene Santos seeks review of the Commissioner's decision to deny her supplemental security income benefits. The Administrative Law Judge determined that Santos was

not disabled within the meaning of the Act, finding that Plaintiff's Bell's palsy, hypertension, asthma

and depressive disorder did not individually or in combination impose more than minimal

interference with her ability to perform work activities. Plaintiff challenged the ALJ's and Appeals

Council's consideration of her mental impairments. The Magistrate Judge concluded that the ALJ's

finding that Plaintiff's learning disabilities, borderline intellectual functioning, and depression were

not severe was not supported by substantial evidence nor were the correct legal standards applied.

The Court has reviewed the Memorandum and Recommendation and finds it to be neither

clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), cert.

denied, 492 U.S. 918 (1989). Accordingly, the Court ACCEPTS the Magistrate Judge's

recommendation to reverse and remand the Commissioner's decision to deny benefits. It is therefore

ORDERED that the Commissioner's decision is REVERSED and REMANDED for further

proceedings consistent with the Magistrate Judge's Memorandum.

It is so ORDERED.

SIGNED this 5th day of April, 2010.

XAVIER RODRIGUEZ

UNITED STATES DISTRICT JUDGE

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